

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BETH DONOVAN,

Plaintiff,

v.

CITY OF BOSTON,

Defendant.

C.A. No. 1:20-cv-11976

**PLAINTIFF’S SUPPLEMENT TO UNOPPOSED EMERGENCY MOTION FOR
ORDER OF CONTEMPT**

Pursuant to Fed. R. Civ. P. 45(g), Plaintiff, Beth Donovan (“Ms. Donovan” or “Plaintiff”), respectfully moves this Honorable Court for an Order of Contempt against Richard Reardon (“Mr. Reardon”) for his failure to abide by this Court’s Order (ECF No. 98) compelling him to appear for a deposition at Todd & Weld’s Boston office.

In further support of this motion, Ms. Donovan states that the undersigned counsel complied with this Court’s Order (ECF No. 98) by serving a copy of the Order, along with a deposition subpoena and a letter explaining the consequences of ignoring the Order, upon Mr. Reardon—service was effected by the Plymouth County Sheriff’s Department. *See Exhibit 1* (proof of service by Sheriff’s Department). This process was supplemented by service via Fedex. *See Exhibit 2* (proof of service by Fedex). The undersigned counsel also had the Notice of Deposition served upon counsel of record for Defendant City of Boston by e-mail. *See Exhibit 3* (fourth re-notice of deposition of Richard Reardon). The parties agreed that Mr. Reardon’s deposition would take place at Todd & Weld’s Boston office on Wednesday, August 2, 2023 at 9:30 a.m. *See Exhibit 4* (affidavit of Attorney Nicholas Carter).

On Thursday, July 27, 2023 at 2:42 p.m., Mr. Reardon advised Plaintiff’s counsel of his intention to ignore the Court’s Order (ECF No. 98). *See id.* Plaintiff’s counsel advised Mr.

Reardon that he was required to appear unless he obtained relief from the Court. *See id.*

Plaintiff's counsel again prepared for Mr. Reardon's deposition and paid for a stenographer to attend in the event Mr. Reardon chose to comply with the Court's Order (ECF No. 98). *See Exhibit 5* (invoice for transcript services). Mr. Reardon, however, ignored the Court's Order (ECF No. 98) and refused to appear for his deposition on Wednesday, August 2, 2023 at 9:30 a.m. *See Exhibit 6* (deposition transcript). As a result, Mr. Reardon was ordered to appear before Judge Angel Kelley at the John J. Moakley U.S. Courthouse, 1 Courthouse Way, Courtroom 8, Boston, Massachusetts 02210 for a Show Cause Hearing on Tuesday, August 8, 2023 at 10:00 a.m. *See Exhibit 7* (Order to Show Cause with return of service).

During the Show Cause Hearing, Mr. Reardon, by and through counsel, represented to the Court that he was confused about the nature of the subpoenas and the seriousness of the Court's Order (ECF No. 98); however, Mr. Reardon was specifically told that he was required to attend the scheduled deposition on August 2, 2023 at 9:30 a.m., and he expressed no confusion about the deposition subpoena or this Court's Order (ECF No. 98). *See Exhibit 4* (affidavit of Attorney Nicholas Carter). Mr. Reardon simply ignored this Court's Order (ECF No. 98) without a valid excuse. Plaintiff's husband, Michael Donovan, observed that Mr. Reardon was at home throughout the day on August 2, 2023, and Mr. Reardon was observed doing yard work on that day. *See Exhibit 8* (affidavit of Michael Donovan).

An Order of Contempt is now appropriate because the Court took the careful approach of issuing its Order requiring Mr. Reardon to attend the deposition pursuant to the subpoena served upon him, and he has violated that Order. *See Sys. Tech.*, Docket No. 3:16-CV-30138-MGM, 2018 WL 3853717, at *2, *report and recommendation adopted*, Docket No. 3:16-CV-30138-MGM, ECF No. 47 (stating that pursuant to Fed. R. Civ. P. 45(g), "[t]he court for the district

where compliance [with a subpoena] is required . . . may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it”); *see also Morse v. Mass. Exec. Office of Public Safety, Dept. of State Police*, Docket No. 12-CV-40160-TSH, 2014 WL 3501036, at *2 (D. Mass. July 9, 2014) (Hennessy, M.J.).

WHEREFORE, Ms. Donovan respectfully requests that this Court issue an Order of Contempt against Mr. Reardon in the form attached hereto at **Exhibit A**.

Respectfully submitted,

BETH DONOVAN,

By her Attorneys,

/s/ Nicholas Carter

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Dated: August 8, 2023

LOCAL RULE 7.1 CERTIFICATE

Pursuant to L.R. 7.1, Plaintiff’s counsel, Nicholas Carter, certifies that he submitted this supplemental pleading at the direction of the Court on August 8, 2023, and that counsel for Mr. Reardon intends to oppose the motion, which the Court has permitted.

/s/ Nicholas Carter

Nicholas Carter

CERTIFICATE OF SERVICE

I, Nicholas Carter, hereby certify that the foregoing document was served upon Richard Reardon's attorney, Mark H. Cirigliano, via e-mail and filed through the ECF system and will therefore be sent electronically to all counsel of record as identified on the Notice of Electronic Filing (NEF).

/s/ Nicholas Carter

Nicholas Carter